IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

Cont. Case (C).No.1229 of 2007(S)

(ARISING OUT OF THE JUDGEMENT IN W.P.(C).NO.33702/2005 DATED 27/03/2006).

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PETITIONER: 1ST PETITIONER:-

V.R.ASHOK KUMAR,
S/O. VATTAPARAMBIL RAGHAVAN,
AGED 44,
VATTAPARAMBIL HOUSE,
PERUVALOOR,
PANAKAM,
THRISSUR.
(PRESIDENT, SIVASAKTHI KSHEMA SAMITHI).

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.K.B.SUJAI KUMAR
SRI.T.V.JAYAKUMAR NAMBOODIRI
SRI.THUSHAR NIRMAL SARATHY
SRI.M.M.VINOD KUMAR
SMT.K.M.RAMYA

RESPONDENTS: RESPONDENTS 8 AND 9:-

1. CHANDRAN,
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,
SUPERINTENDENT OF POLICE,
THRISSUR.

2. SURENDRAN,
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,
SUB INSPECTOR OF POLICE,
PAVARTY POLICE STATION.

BY SENIOR GOVERNMENT PLEADER SMT.K.MEERA.

THIS CONTEMPT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.Dattu, C.J. & K.T.Sankaran, J.

Cont.Case (C).No.1229 of 2007-S

Dated, this the 28th day of September, 2007

JUDGMENT

H.L.Dattu,C.J.

Complainant alleges that the respondents/Superintendent of Police, Thrissur and Sub Inspector of Police, Pavarty Police Station have disobeyed the orders and directions issued by this Court while disposing of W.P.(C).No.33702 of 2005 dated 27th March, 2006. Therefore, a request is made to us to initiate appropriate contempt proceedings against the respondents and punish them for the so-called disobedience of the orders and directions of this Court.

(2) After hearing the learned counsel appearing for the complainant, we had directed the learned Government Pleader to take notice for the respondents and to file their counter affidavits, if any, and also to keep the respondents present before this Court.

(3) The learned Government Pleader has filed counter affidavits of both the respondents. Along with the counter affidavit, the learned Government Pleader has produced a copy of the common judgment of this Court in W.P.(C). Nos.29168 of 2006 and 29643 of 2006, disposed of on 28th November, 2006.

(4) We have heard the learned counsel appearing for the parties to the lis.

(5) In the order passed in W.P.(C).No.33702 of 2006 dated 27th March, 2006, there is an observation made by this Court, that, there is an order of injunction passed by a competent civil Court and that order of

injunction requires to be implemented and for implementing the order of injunction, if police assistance is sought, the police should give police protection for implementation of the order of injunction passed by the competent civil Court.

(6) After disposal of the writ petition, the petitioner has approached the respondents/police officers, bringing to their notice the disobedience of the order of injunction by the private parties by lodging complaints after complaints.

(7) Some time in the month of November 2006, the petitioners in W.P.(C).No.33702 of 2005 were again before this Court in yet another writ petition.

(8) This Court has disposed of the writ petition and in that has specifically observed, that if there is any violation of the order passed by the competent civil Court, the parties have to approach the same Court for appropriate relief. Further, the Court has observed that the police are directed to see that law and order is maintained and civil Court orders are not violated. As such, in our opinion, there is no positive direction issued to the police authorities to assist the person to implement the order passed by the competent civil Court.

(9) As we have already indicated, there are two orders - the first order says that police authorities should assist the person who got order of injunction in his favour and the second order passed by this Court is that, if there is violation of the injunction order, the parties should approach the civil Court which had granted the order of injunction. There are conflicting views expressed by this Court on the very subject matter. In such a situation, it would be extremely difficult for the respondents to follow any one of the orders

passed by this Court. Therefore, the respondents could not have taken any action against the private respondents in the writ petition, even if, assuming they have violated the order of injunction passed by the civil court. Further, to attract Section 2(b) of the Contempt of Courts Act, there must be a wilful and deliberate disobedience of the orders and directions issued by this Court. The complainant should not only plead but also should support with enough evidence that the respondents have wilfully and deliberately disobeyed the orders and directions issued by this court. In the absence of such pleadings and supporting material, we cannot take cognizance of the contempt petition. Accordingly, the contempt proceedings requires to be dropped and it is accordingly dropped.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/DK.